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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/799,337	03/12/2004	Dean S. Irwin	PMEDEX.17CPIC	6234
20995 7590 04/11/2007 KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614			EXAMINER FARAH, AHMED M	
			ART UNIT	PAPER NUMBER
			3735	
SHORTENED STATUTORY PERIOD OF RESPONSE		NOTIFICATION DATE	DELIVERY MODE	
3 MONTHS		04/11/2007	ELECTRONIC	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Notice of this Office communication was sent electronically on the above-indicated "Notification Date" and has a shortened statutory period for reply of 3 MONTHS from 04/11/2007.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

jcartee@kmob.com  
eOAPilot@kmob.com

**Office Action Summary**

Application No.

10/799,337

Applicant(s)

IRWIN, DEAN S.

Examiner

Ahmed M. Farah

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on 23 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 and 20-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 4, 16-18, 20 and 21 is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-15 and 22-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

*Note: the indication of allowability of claim 19 in the Office Action dated July 19, 2006 was a typographical error since the was cancelled in the amendment filed on June 26, 2006.*

### **Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 5-8, 10-15 and 22-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anvari et al. US Patent No. 5,979,454 in view of Spencer US Patent No. 6,979,327.

Anvari et al. disclose apparatus and method of use for phototherapeutic treatment of the skin, the apparatus comprising: a treatment laser source for providing the treatment energy; and cooling means for providing to the skin a cooling fluid capable to cool the skin to temperatures close to 0 °C (see col. 7, lines 17-18). Anvari et al. do not teach the use of an excimer laser to provide the recited treatment parameters such as the wavelength and intensity. However, they teach the need for matching the wavelength of the treatment light with the absorption characteristics of the tissues in the treatment site (see Claim 5 of Anvari et al.)

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Spencer teaches an alternative skin treatment device in which xenon-chloride excimer laser is used to provide the treatment energy. As recited in claim 6 of the instant application, the source of the treatment energy is a standard, commercially available excimer laser, such as xenon chloride excimer laser. Hence, in this Office Action (OA), the excimer laser of Spencer is treated as being capable to provide the recited energy parameters.

Therefore, at the time of the applicant's invention, it would have been obvious to one skilled in the art to modify Anvari et al. in view of Spencer and use excimer laser so as to irradiating the treatment site with a laser having a wavelength consistent with targeted chromophores in the tissue of the treatment site. This would be beneficial for the treatment of tissue disorders such as psoriasis and vitiligo.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Anvari et al. in view of Spencer as applied to claims 1-3, 5-8 and 10-15 above, and further in view of Altshuler et al.

Neither Anvari et al. nor Spencer teach the use of thermoelectric device for cooling the skin. However, the use of thermoelectric cooler for cooling skin tissue during phototherapy is well known in the medical art. Altshuler et al. teach a phototherapeutic treatment device comprising a thermoelectric cooler, such as peltier device, for cooling body tissue during treatment. Therefore, at the time of the applicant's invention, it would have been obvious to one skilled in the art to use a thermoelectric cooler as equivalent alternative cooling means to provide cooling of the tissue during the treatment.

***Allowable Subject Matter***

Claims 4 and 16-18, 20 and 21 are allowed.

***Response to Arguments***

Applicant's arguments filed on January 23, 2007, have been fully considered but they are not persuasive. The applicant argues:

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

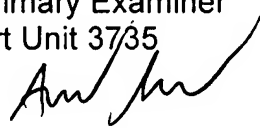
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ahmed M. Farah whose telephone number is (571) 272-4765. The examiner can normally be reached on Mon, Tue, Thur and Fri between 9:30 AM 7:30 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marmor II Charles can be reached on (571) 272-4730. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ahmed M Farah  
Primary Examiner  
Art Unit 3735



April 2, 2007.